

14 November 1997

Re: NEPA Technical Inquiry 0176 - Lead-Based Paint Removal Guidelines

Dear NEPA Call-In User:

This letter is in response to your October 8, 1997 request for information about lead-based paint (LBP) removal requirements for a GSA building under your management. You stated you would like to initiate a renovation project to replace large curtain windows in the building which are not energy efficient. The frames of this window style, as well as other surrounding surfaces, are suspected of being painted with LBP. You also stated this 386,000 square foot building was built in the 1940's. You would like to test for the presence of lead, and requested guidance on the regulatory issues which apply to a renovation project like this.

#### SUMMARY OF FINDINGS

NEPA Call-In determined an action such as this is subject to the requirements of the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA). GSA guidance for LBP activities is contained in the GSA Technical Guide E402.1097, "Lead-Based Paint." Federal regulations affecting LBP activities such as removal actions in public buildings (except child-occupied facilities), commercial buildings, and steel structures are currently being developed by the Environmental Protection Agency (EPA). If you decide to abate LBP, the Occupational Safety and Health Administration (OSHA) has developed training standards for workers and contractors performing lead removal activities. Waste produced from LBP removal activities may be regulated by the Resource Conservation and Recovery Act (RCRA). The State of Colorado is currently developing its own standards for LBP activities. Finally, we identified three documents you may find helpful. Our Detailed Findings are presented below.

#### DETAILED FINDINGS

NEPA Call-In reviewed GSA guidance in the PBS NEPA Desk Guide, Interim Guidance, September 1997. The measurements and procedures outlined in the PBS NEPA Desk Guide shall serve as interim guidance for PBS NEPA compliance activities, pending official issuance of ADM 1095.1F, "Environmental Considerations in Decisionmaking," and PBS P 1095.4C, "Compliance with the National Environmental Policy Act," which are contained in Appendix 1 of the Desk Guide. Section 5.3(j), "Automatic CATEXs," states the following is considered to be an automatic Categorical Exclusion (CATEX) from the NEPA requirement of an Environmental Assessment (EA) or Environmental Impact Statement (EIS):

"Repair and alteration projects involving, but not adversely affecting, properties listed on or eligible for the National Register of Historic Places (National Register), when there is no evidence of community controversy or other environmental issues. The process required by section 106 of the NHPA must be followed; see ADM 1020.2."

If this action is determined to be an automatic CATEX under NEPA, the decision should be documented and stored with project files.

We then reviewed guidelines in Section 106 of the NHPA. Section 106 requires Federal agencies like GSA to consider the effects of their actions on historic properties. Since you stated the building in question was built in the 1940's, an alteration project may be considered an undertaking under Section 106. If so, a consultation process with the State Historic Preservation Officer (SHPO) would have to be initiated. Any adverse effects the alteration would have on the historic property would have to be mitigated before the action could take place. However, in an October 16, 1997 conversation with you, you stated this particular building was already determined by Region 8 Office of Portfolio Management (PP) to have no significant historical value and therefore NHPA Section 106 Compliance has been satisfied.

We then contacted Industrial Hygienist, GSA Central Office, to inquire about GSA guidance on the issue of LBP. They provided us with a copy of GSA Technical Guide E402.1097, "Lead Based Paint" (enclosed). This document may be used as general guidance for LBP activities within GSA and covers such issues as regulatory compliance, sources of lead in the workplace, and methods of LBP removal.

NEPA Call-In then reviewed Title X of the Housing and Community Development Act of 1992 for Federal guidance on LBP activities. Subtitle B, "Lead Exposure Reduction", Sections 402-408 (enclosed) mandated in 1992 that OSHA and EPA develop regulations and standards for 1) training programs for workers and contractors performing LBP activities, and 2) requirements for LBP activities in public and commercial buildings and steel structures. However, since this 1992 mandate, EPA has only published the following regulation: "Requirements for LBP activities in target housing and child-occupied facilities," August 29, 1996, codified at Title 40 Code of Federal Regulations (CFR) Part 745 (enclosed). EPA is currently developing regulations for requirements for LBP activities in public and commercial buildings and is holding open public comment until November 3, 1997 on this issue.

We then contacted Ms. Ellie Clark, Technical Information Specialist, National Program Chemicals Division, Office of Pollution Prevention and Toxics, USEPA, (202) 260-3402, for information about when EPA will finalize regulations for LBP activities in public and commercial buildings. In an e-mail response (clark.ellie@epamail.epa.gov), Ms. Clark stated regulations for public and commercial buildings will not be finalized soon and that EPA delayed finalizing them based on the need to gain additional information (61 Federal Register 45778, August 29, 1996). As a result, there are currently no Federal regulations which govern LBP activities in public and commercial buildings. However, should you choose to conduct LBP activities such as removal, OSHA has published interim regulations for workers and contractors performing this type of work titled, "Interim Final Lead in Construction Standard," Title 29 CFR Part 1926.62. In a follow-up call to you, you stated you did not need a copy of Title 29 CFR 1926.62.

NEPA Call-In contacted the OSHA Office of Health Standards, (202) 219-7075, to determine the status of the interim regulations. The representative stated these regulations are in use and are still being finalized. He also stated the OSHA interim regulations cover such issues as worker exposure limits, worker training requirements, and lead hazard control methods. Lead contractors and workers must be in compliance with the requirements of these regulations. To help you understand the requirements of lead contractors, we are enclosing EPA pamphlet EPA-747-F-96-006, "Finding a qualified lead professional for your home," November, 1996.

The waste produced through LBP removal activities may be subject to regulation as hazardous waste under RCRA. NEPA Call-In contacted the National Lead Information Center, (800) 424-5323, for further guidance on the RCRA requirements for LBP waste. The information specialist referred us to a report titled, "The applicability of RCRA disposal requirements to lead-based paint waste." This report explains RCRA disposal requirements in terms of three categories; 1) waste water produced in removal activities, 2) solid material coated with LBP such as doors and windows, and 3) plastic sheeting and tape used in containment practices. We will forward this report to you upon receipt from the National Lead Information Center. Qualified lead contractors should be aware of the proper methods of disposal for these and other types of hazardous wastes produced through LBP activities.

NEPA Call-In also contacted Ms. Terry Taylor, Representative, Lead Poisoning Prevention Program, Colorado Department of Public Health, (303) 692-3012, for information on the State of Colorado's requirements for LBP activities. Ms. Taylor stated Colorado is currently developing its own program for LBP activities under USEPA guidelines, and that the State will emphasize LBP management over removal. She also stated you should contact her directly for information about an upcoming public meeting for comments on the proposed state regulations. Since Colorado currently has no guidelines for LBP activities, it is sufficient to follow GSA guidance and Federal regulations.

Finally, NEPA Call-In identified the following documents you may find useful, and which we can provide to you upon request:

1. U.S. Department of Housing and Urban Development (HUD) document, "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing." Although not specific to public and commercial buildings, this document contains information on LBP identification methods, hazard assessment, contracting for abatement, and hazardous waste management. This document is available through NEPA Call-In or by contacting HUD USER, (800) 245-2691;
2. Statement of Work (SOW), "Lead Based Paint Identification for Luke Air Force Base, Arizona," June 1993; and
3. SOW, "Lead Based Paint Removal, Scott Air Force Base," undated.

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Sincerely,

(Original Signed)

NEPA Call-In Researcher